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Attorneys for Defendant
APPLE INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re iPhone Application Litigation

CASE NO. 11-MD-02250-LHK

**STIPULATION AND ~~[PROPOSED]~~ ORDER
RE: BRIEFING SCHEDULE AND
HEARING ON DEFENDANT'S MOTION
TO DISMISS AND PLAINTIFFS' MOTION
FOR CLASS CERTIFICATION**

Jury Trial Demanded

Second Amended Complaint Filed: July 3, 2012
Trial Date: September 16, 2013

1 1. On July 27, 2012, Defendant Apple Inc. (“Apple”) filed a partial motion to dismiss (1)
 2 each of the non-resident Plaintiffs (Dustin Freeman, Marcia W. Burke, William C. Burke III, and
 3 Arun Gupta), and (2) the claims asserted on behalf of the putative Geolocation Class from Plaintiffs’
 4 Second Amended Consolidated Class Action Complaint. D.I. 76.

5 2. Apple represents that before filing the motion, counsel for Apple called Courtroom
 6 Deputy Martha Parker Brown to schedule a hearing date and, according to the instructions contained
 7 in a recorded message, emailed Ms. Parker Brown on the morning of July 27, 2012 (a copy of which
 8 is attached hereto) to schedule a hearing. Apple did not receive a response to that email and
 9 erroneously attempted to notice the motion for September 6, 2012 or the Court’s next available
 10 hearing date.

11 3. On August 1, 2012, the Court ordered that the hearing on Apple’s motion be continued
 12 either to November 15, 2012 or to January 10, 2013, the hearing date for Plaintiffs’ motion for class
 13 certification or to reset the dates and briefing schedule by agreement between the parties, and further
 14 directed the parties to stipulate to an amended briefing schedule and hearing date for Apple’s pending
 15 motion to dismiss and for Plaintiffs’ motion for class certification, or in the absence of agreement, to
 16 each submit their proposals.

17 4. The parties agree that it would be preferable to have Apple’s partial motion to dismiss
 18 be heard on November 15, 2012, or thereabouts. Apple submits that this 11-page motion concerns
 19 the narrow, threshold issue of whether the two remaining claims in this case (under California’s UCL
 20 and CLRA) can be brought by the non-resident Plaintiffs in light of the California Supreme Court’s
 21 decision in *Sullivan v. Oracle Corp.*, 51 Cal. 4th 1191 (2011) (no extraterritorial application of
 22 California’s consumer protection statute to non-resident plaintiffs).

23 5. Although Plaintiffs believe that *Sullivan* does not preclude non-California residents
 24 from serving as class representatives under the facts of this case, they nonetheless believe they would
 25 benefit from having that issue resolved in advance of class certification, because having an Answer
 26 from Apple to the entire Complaint may narrow the issues to be briefed for class certification.

27 6. Apple does not object to the proposed extension of the class certification briefing
 28 schedule and agrees that the interests of efficiency and judicial economy favor resolution of this

threshold issue prior to extensive development of the legal and factual issues relating to the distinct Geolocation claims.

7. Accordingly, if no hearing date prior to November 15, 2011 is available, the parties agree to the following briefing schedule, which includes a brief extension of the class certification briefing schedule and hearing date, so as to obtain resolution of the issues raised in Apple's partial motion and provide for the answering of the complaint before Plaintiffs' class certification brief is due. The parties respectfully request that the Court approve the following schedule:

Event	Original Deadline	Revised Proposal
Mediation	June 14, 2012	Completed
Amended Complaint	July 3, 2012	Completed
Motion to Dismiss	NA	Completed on July 27, 2012
Opposition to MTD	NA	October 4, 2012
Reply on MTD	NA	October 25, 2012
Hearing on MTD	NA	November 15, 2012
Plaintiffs' class expert disclosures	September 14, 2012	November 30, 2012
Defendants' class expert rebuttal disclosures	October 5, 2012	December 7, 2012
Plaintiffs' motion for class certification	October 26, 2012	December 21, 2013
Defendants' opposition to motion for class certification	December 3, 2012 at NOON PST	January 28, 2013
Plaintiffs' reply in support of motion for class certification	December 20, 2012	February 20, 2013
Hearing on motion for class certification	January 10, 2013; 1:30 pm	TBD
Fact discovery cutoff	March 1, 2013	April 5, 2013
Opening expert discovery disclosures	March 15, 2013	April 10, 2013
Expert rebuttal disclosures	April 3, 2013	April 19, 2013

Expert discovery cutoff	April 19, 2013	May 3, 2013
Last day to file dispositive motions	May 8, 2013	May 17, 2013
Hearing on dispositive motions	June 20, 2013 at 1:30 pm	TBD
Final Pretrial conference	August 14, 2013 at 2:00 pm	Unchanged
Jury Trial	September 16, 2013 at 9:00 am	Unchanged
Length of trial	7 days	Unchanged

Respectfully submitted,

DATED: August 3, 2012

GIBSON, DUNN & CRUTCHER LLP

By: /s/ S. Ashlie Beringer
S. ASHLIE BERINGER

Attorneys for Defendant
APPLE INC.

DATED: August 3, 2012

KAMBERLAW, LLC

By: /s/Scott Kamber
SCOTT A. KAMBER (*pro hac vice*)

Interim Class Counsel for Plaintiffs

ATTORNEY ATTESTATION

Pursuant to Civil Local Rule 5-1, I, S. Ashlie Beringer, hereby attest that concurrence in the filing of this document has been obtained from Scott A. Kamber.

DATED: August 3, 2012


By: /s/ S. Ashlie Beringer
S. ASHLIE BERINGER

[PROPOSED] ORDER

Pursuant to stipulation, the Court adopts the parties' proposed revised case schedule deadlines. The hearing on the motion for class certification is set for March 21, 2013, at 1:30 p.m. The hearing on dispositive motions is set for June 27, 2013, at 1:30 p.m.

IT IS SO ORDERED.

Dated: August 6, 2012


LUCY H. KOH
UNITED STATES DISTRICT JUDGE

Cutler, Molly

From: Cutler, Molly
Sent: Friday, July 27, 2012 9:11 AM
To: 'Martha_Brown@cand.uscourts.gov'
Subject: Hearing Date for In re iPhone Application Litigation

Dear Ms. Parker Brown:

We would like to obtain a hearing date for a motion to dismiss in 11-MD-02250 that we will be filing today. Is September 6 at 1:30 available? Thank you very much.

Regards,
Molly Cutler

Molly Cutler

GIBSON DUNN

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